

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Elwell Post Office
Elwell, Michigan

Docket No. A2012-112

NOTICE AND ORDER ACCEPTING APPEAL AND
ESTABLISHING PROCEDURAL SCHEDULE

(Issued January 20, 2012)

Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received three petitions for review of the Postal Service's determination to close the Elwell post office in Elwell, Michigan. The first petition for review received January 3, 2012, was filed by Marjorie Brecht. The second petition for review received January 6, 2012, was filed by John Hutchins. The third petition for review received January 11, 2012, was filed by Patricia Walsh Mallory. The earliest postmark date is December 24, 2011.

The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012-112 to consider Petitioners' appeal. If Petitioners would like to further explain their position with supplemental information or facts, Petitioners

may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than February 7, 2012.

Issues apparently raised. Petitioners contend that: (1) the Postal Service failed to consider the effect of the closing on the community (see 39 U.S.C. 404(d)(2)(A)(i)); and (2) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (see 39 U.S.C. 404(d)(2)(A)(iii)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The due date for any responsive pleading by the Postal Service to this Notice is January 30, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it "will delay the closing or consolidation of any Post Office until May 15, 2012"¹. The Postal Service further indicated that it "will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals." *Id.* It stated that the only "Post Offices" subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it "will not close or consolidate any other Post Office prior to May 16, 2012." *Id.* Lastly, the Postal Service requested the Commission "to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding." *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

Availability; website posting. The Commission has posted the appeal and supporting material on its website at <http://www.prc.gov>. Additional filings in this case and participants' submissions also will be posted on the Commission's website, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's website is available online or by contacting the Commission's webmaster via telephone at 202-789-6873 or via electronic mail at prc-webmaster@prc.gov.

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., eastern time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at prc-dockets@prc.gov or via telephone at 202-789-6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's website, <http://www.prc.gov>, unless a waiver is obtained. See 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's website or by contacting the Commission's docket section at prc-dockets@prc.gov or via telephone at 202-789-6846.

The Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than Petitioners and respondent, wishing to be heard in this matter are directed to file a notice of intervention. See 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before February 14, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's website unless a waiver is obtained for hardcopy filing. See 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. See 39 U.S.C. 404(d)(5). A

procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by the Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. See 39 CFR 3001.21.

It is ordered:

1. Any responsive pleading by the Postal Service to this Notice is due no later than January 30, 2012.
2. The procedural schedule listed below is hereby adopted.
3. Pursuant to 39 U.S.C. 505, James F. Callow is designated officer of the Commission (Public Representative) to represent the interests of the general public.
4. The Secretary shall arrange for publication of this Notice and Order in the *Federal Register*.

By the Commission.

Ruth Ann Abrams
Acting Secretary

PROCEDURAL SCHEDULE

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| January 3, 2012 | Filing of Appeal |
| January 18, 2012 | Deadline for the Postal Service to file the applicable administrative record in this appeal |
| January 30, 2012 | Deadline for the Postal Service to file any responsive pleading |
| February 14, 2012 | Deadline for notices to intervene (see 39 CFR 3001.111(b)) |
| February 7, 2012 | Deadline for Petitioners' Form 61 or initial brief in support of the petition (see 39 CFR 3001.115(a) and (b)) |
| February 27, 2012 | Deadline for answering brief in support of the Postal Service (see 39 CFR 3001.115(c)) |
| March 13, 2012 | Deadline for reply briefs in response to answering briefs (see 39 CFR 3001.115(d)) |
| March 20, 2012 | Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116) |
| April 20, 2012 | Expiration of the Commission's 120-day decisional schedule (see 39 U.S.C. 404(d)(5)) |